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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JAMES MODICO, an individual,

Plaintiff,

vs.

SOUTHERN NEVADA HEALTH DISTRICT, a  
political subdivision of the State of Nevada,

Defendant.

Case No.: 2:23-cv-02027-RFB-MDC

**STIPULATION AND [PROPOSED]  
ORDER TO EXTEND DISCOVERY  
(FIRST REQUEST)**

Pursuant to Local Rules IA 6-1 and 26-3, IT IS HEREBY STIPULATED AND AGREED by and among James Modico (“Plaintiff”) and Southern Nevada Health District (“Defendant”) that the current discovery deadlines be extended in the above referenced matter. This is the first stipulation to extend discovery deadlines.

**I. BACKGROUND**

This is an employment discrimination case. Plaintiff James Modico alleges he was subjected to discrimination based on disability in violation of the Americans with Disabilities Act and Nevada law with respect to his employment for Defendant.

Based on the foregoing, Plaintiff alleges claims for: (1) wrongful termination under the ADA; (2) retaliation under the ADA; and (3) “violation of Nevada statutory protections” under NRS 613.330.

Plaintiff filed a complaint on December 7, 2023 (ECF No. 1). Defendant filed its motion

1 to dismiss on January 23, 2024 (ECF No. 8). Plaintiff indicated that he intended to file an  
2 amended complaint. (ECF No. 16). After Plaintiff filed his First Amended Complaint,  
3 Defendant filed another Motion to Dismiss on March 8, 2024. (ECF No. 20). The Court set a  
4 hearing for June 6, 2021. (*See* Minute Order, ECF No. 24).

## 5 **II. DISCOVERY COMPLETED TO DATE**

6 On February 8, 2024, SNHD produced its initial disclosures. Plaintiff produced his  
7 initial disclosures on March 29, 2024.

8 On May 3, 2024, SNHD notice a deposition for Dr. Agapito Racoma to occur on June  
9 10, 2024. Plaintiff produced a supplemental disclosure on May 8, 2024, which included a  
10 medical authorization for release of records from Veterans Affairs. On May 10, 2024, SNHD  
11 issued a subpoena for records upon the Department of Veterans Affairs, Southern Nevada  
12 Healthcare System for Plaintiff's health and medical records. SNHD awaits receipt of such  
13 medical records.

## 14 **III. DISCOVERY THAT REMAINS TO BE COMPLETED**

15 The parties will supplement their FRCP 16.1 disclosures as necessary and appropriate,  
16 as additional information and documentation are made available in the course of discovery.  
17 Specifically, the parties intend to obtain and produce Plaintiff's medical records and any  
18 evidence related to injuries or damages.

19 Prior to disclosing expert reports, the parties anticipate that several depositions will be  
20 taken, including, but not limited to, Plaintiff, his medical provider(s), and percipient witnesses  
21 of Defendant related to the underlying allegations, as well as any Rule 30(b)(6) witnesses on  
22 behalf of Defendant.

23 The parties need to designate initial experts and exchange reports after depositions are  
24 taken. The parties will then need to conduct the depositions of each other's experts. The parties  
25 intend to serve written discovery requests on each other as needed.

## 26 **IV. REASONS FOR NOT COMPLETING DISCOVERY**

27 Defendant has requested and Plaintiff has acceded to this extension to allow written  
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1 discovery and depositions to take place prior to the initial expert disclosure deadline. This  
2 discovery extension is requested based on delays associated with present procedural uncertainty  
3 and the need for discovery prior to initial expert designations and reports. A substantive motion  
4 to dismiss has been filed by Defendant, and an order of this Court with respect to the same will  
5 not occur prior to the current deadline for initial expert disclosures. Moreover, the Early Neutral  
6 Evaluation in this case was unusually late, as it did not occur until May 10, 2024 which could  
7 result in settlement, but the parties were ultimately unable to reach a resolution.

8         The parties are working to complete discovery within the time period set forth in the  
9 initial scheduling order, and this is the first request for extension of discovery deadlines.  
10 However, good cause exists to extend the deadlines. The parties agree that the current discovery  
11 deadlines provide insufficient time to complete the remaining discovery and would impose  
12 undue time and economic burdens on all parties, particularly given the imminent initial expert  
13 disclosure deadline. For example, under the current deadlines, initial expert disclosures would  
14 need to be made before the parties are aware of which claims, if any, will be proceeding herein,  
15 and before Defendant will have filed an answer the First Amended Complaint. Such disclosures  
16 would need to be served before all party depositions have been completed, which would result  
17 in unnecessary supplemental reports, increasing costs to the parties to obtain rush or rough draft  
18 deposition transcripts for their experts to review. The initial expert deadline needs to be extended  
19 to allow the parties the opportunity to know which experts are even necessary, after which time,  
20 the experts will need time to review documents in the preparation of their reports and to render  
21 their opinions after receiving the remaining discovery. Accordingly, additional time is needed to  
22 conduct the requisite discovery, investigation, and preparation to ensure that this matter is  
23 properly adjudicated on the merits.

#### 24 **V. PROPOSED MODIFICATION**

25         Based on the foregoing, the parties jointly see a modification of the current deadlines as  
26 follows:

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1        1. Current Deadlines:

2            Amend the pleading and add parties        April 23, 2024 (Passed)

3            Initial expert disclosures                    May 23, 2024

4            Rebuttal expert disclosures                   June 24, 2024

5            Discovery cut-off date                        July 22, 2024

6            Dispositive motions                            August 21, 2024

7            Proposed joint pretrial order                September 20, 2024

8        2. Proposed Deadlines:

9            Initial expert disclosures                    July 22, 2024

10          Rebuttal expert disclosures                   August 23, 2024

11          Fact discovery cut-off date                   September 20, 2024

12          Dispositive motions                           October 21, 2024<sup>1</sup>

13          Proposed joint pretrial order               November 19, 2024

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27        <sup>1</sup> Deadline falls on Sunday, October 20, 2024

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1 This request is made in good faith and not for the purposes of delay.

2 **IT IS SO STIPULATED.**

3 DATED this 16th day of May 2024

4 HATFIELD & ASSOCIATES, LTD.

5 /s/Trevor J. Hatfield

6 Trevor J. Hatfield, Esq.  
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9 Las Vegas, NV 89101  
10 *Attorney for Plaintiff*  
11 *James Modico*

DATED this 16th day of May 2024

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/s/ Michael M. Edwards

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*Southern Nevada Health District*

12 **ORDER**

13 **IT IS SO ORDERED.**

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15 Hon. Maximiliano D. Couvillier III  
16 UNITED STATES MAGISTRATE JUDGE  
17 DATED: 5/17/2024  
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